IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Crl.MC.No. 2460 of 2007()

CRIME NO. 270/05 OF NEDUMKANDOM POLICE STATION
CP.53/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT, NEDUMKANDOM

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PETITIONER: ACCUSED:

SAJI, S/O.MOHANAN, KAVUMGAL VEETTIL,
BALAN PILLA CITY, BANGLADESH COLONY,
KARUNAPURAM VILLAGE, UDUMBANCHOLLA TALUK,
IDUKKI DISTRICT.

BY ADV. SRI.LATHEESH SEBASTIAN

RESPONDENTS: STATE AND COMPLAINANT:

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1. STATE OF KERALA, REPRESENTED BY
DIRECTOR GENERAL OF PROSECUTIONS, HIGH COURT OF
KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
NEDUMKANDOM POLICE STATION, IDUKKI DISTRICT.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2460 of 2007

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Dated this the 3rd day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution under section 8 of the Kerala Abkari Act. Investigation is complete. Final report has been filed. Cognizance has been taken. Committal proceedings has been registered. The petitioner was not arrested at the crime stage. He has not appeared before the learned Magistrate. He apprehends arrest in execution of the non-bailable warrant and coercive processes issued by the learned Magistrate.

2. According to the petitioner he is absolutely innocent. His failure/omission to appear earlier was not wilful, but was due to reasons beyond his control. He is willing to surrender before the learned Magistrate and seek bail. He shall co-operate with the Court for the expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decisions in **Sukumari** v. **State of Kerala** (2001 (1) KLT 22) and **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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